

REMARKS/ARGUMENTS***Amendments to the Claims***

Claims 1-30 were pending. Claims 6, 23-27, and 29-30 are currently amended. Claims 5 and 30 are cancelled. Upon entry of this amendment, claims 1-4 and 6-29 will be pending and under active examination in this matter.

Claims 6, 23-27, and 29 have been amended to replace the trademark “AMEVIVE” with the generic term “alefacept.” Support for such amendment can be found throughout the specification, notably at paragraph 0034.

Claims 6, 23-27, and 29 have further been amended to replace reference to Fig. 1 with reference to the sequence of AMEVIVE (alefacept), provided at SEQ ID NO:8. Support for such amendment can be found throughout the specification, notably at paragraph 0036.

Claim 6 has been amended to insert the term “wherein each cycle comprises an administration period comprising multiple administrations of the soluble CD2-binding LFA3 polypeptide and an interval between administrations and a rest period, and wherein the rest period is substantially longer than the interval between administrations,” support for which can be found throughout the specification, notably at paragraph 0006.

No new matter is added by these amendments.

Amendments to the Specification

The paragraph beginning at page 1, line 4 has been amended to recite the relationship of the present application to PCT/US05/03907, filed February 7, 2005.

The paragraph beginning at page 1, line 32 has been amended to recite the current ATCC Depository address, and the date of deposit of pSAB152 (ATCC 68270), October 1, 1991.

The specification has been amended to insert the generic term “alefacept” which corresponds to the trademark AMEVIVE.

No new matter is added by these amendments.

Objections to the Claims

Claims 6, 23-27, and 29-30 have been objected to as reciting Fig. 1 rather than the appropriate SEQ ID NO corresponding to AMEVIVE (alefacept). Claims 6, 23-27, and 29 have been amended to reference SEQ ID NO:8. Claim 30 is cancelled. Accordingly, the present objection has been overcome.

Rejections under 35 U.S.C. § 112, second paragraph

Claims 5-6, 23-27, and 29-30 are rejected under 35 U.S.C. § 112 as allegedly indefinite. The Office Action alleges that Claim 5 is indefinite for use of the terms “the amino terminal 92 amino acids of mature LFA-3” and “the C-terminal amino acids of human IgG1 hinge region.” The Office Action further alleges that claims 6, 23-27, and 29-30 are indefinite for failure to specify the sequence of AMEVIVE (alefacept).

In the interest of advancing prosecution, claims 5 and 30 are cancelled herein, and claims 6, 23-27, and 29 have been amended to recite the SEQ ID NO of AMEVIVE (alefacept). Accordingly, Applicants respectfully submit that the present rejection has been overcome.

Rejections under 35 U.S.C. § 112, second paragraph

Claim 7 stands rejected under 35 U.S.C. § 112 as allegedly lacking adequate written description of the pSAB152 plasmid (ATCC 68720). Paragraph 0005 of the present specification has been amended to recite the address of the ATCC depository and the date of deposit of ATCC 68720. A copy of the deposit certificate for this deposit is submitted herewith. Accordingly, Applicants respectfully submit that the present rejection has been overcome.

*Rejections under 35 U.S.C. § 102 (a), (b), (e)**A. Vaishnaw et al.*

Claims 1-13 and 16-30 are rejected under 35 U.S.C. § 102(a) and (e) as allegedly anticipated by Vaishnaw et al. (US 2004-01770635). The Office Action alleges that “multiple treatments necessarily require an administration and a rest period.”

Applicants have amended claim 1 to incorporate the term “wherein the rest period is substantially longer than the interval between administrations.”

Vaishnaw fails to recite each and every element of the currently rejected claims as required under 35 U.S.C. § 102. Therefore, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1-13 and 16-29 as anticipated by Vaishnaw.

B. Dingivan

Claims 1-30 are rejected under 35 U.S.C. § 102(a), (b) and (e) as allegedly anticipated by Dingivan (US 2003-0044406). As above, the Office Action alleges that “multiple treatments necessarily require an administration and a rest period.”

Like Vaishnaw, Dingivan fails to recite the use of a rest period as identified in the current claims. Therefore, Dingivan also fails to recite each and every element of the currently rejected claims as required under 35 U.S.C. § 102. Accordingly Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1-29 as anticipated by Dingivan.

Rejections under 35 U.S.C. § 103

Claims 1-30 are rejected under 35 U.S.C. § 103(a) as allegedly obvious over Vaishnaw and Dingivan in view of Magilavy et al. (US 2002-0009446). Again, the Office Action relies on the allegation that “multiple treatments necessarily require an administration and a rest period.” As described above, neither Vaishnaw or Dingivan recite a rest period as identified in the current claims. The Office Action does not allege that Magilavy cures this defect, as would be required to make out a *prima facie* case of obviousness as described in MPEP § 2142. Because the combination of references fails to recite each and every element

of the present claims, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1-29 as obvious over Vaishnav or Dingivan in view of Magilavy.

Obviousness-type double patenting

Claims 1-30 are provisionally rejected under the doctrine of obviousness-type double patenting over claims 1-13 of U.S. App. No. 11/398,908 (Magilavy), which was filed April 6, 2006. Neither application has yet been allowed. If the present application (which represents the U.S. national phase of PCT/US05/03907, filed February 7, 2005) should be deemed otherwise allowable prior to the allowance of claims of 11/398,908, Applicants note that the rejection for obviousness-type double patenting should be withdrawn in the present case and addressed in the later-filed application as described in MPEP § 804(I)(B)(1).

Conclusion

Applicants respectfully submit that the patent application is in condition for allowance. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,

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